

## **Rule 2090-2**

### **ATTORNEYS -- DISCIPLINE**

(a) Any attorney who appears in this Court, including those appearing *pro hac vice* or pursuant to the provisions of Local Rule 2090-1(c) (1) or (2), shall be deemed to be familiar with and shall be governed by these rules and by the Rules of Professional Conduct and other ethical limitations or requirements then governing the professional behavior of members of The Florida Bar and shall be subject to the disciplinary powers of the Court, including the processes and procedures set forth below in this Rule 2090-2.

(b) Any attorney who appears in this Court, either generally under Rule 2090-1(a) or (b) or specially under Rule 2090-1(c), may, after hearing and for good cause shown, be reprimanded, suspended (temporarily or permanently) from practice before this Court, or subjected to such other discipline as a judge of this Court may deem proper.

(c) Whenever it appears to the Court that any attorney who appears in this Court, either generally under Rule 2090-1(a) or (b) or then appearing specially under Rule 2090-1(c), has been disbarred or suspended from practice by the Supreme Court of Florida, or by any other court of competent jurisdiction, as the case might be, or has been disbarred on consent or resigned from the bar of any other court while an investigation into allegations of misconduct is pending, or has been convicted of a felony in any court, such disbarment, suspension, resignation, or conviction shall, twenty (20) days thereafter, operate as an automatic suspension of such attorney's right to practice in this Court; provided, however, the attorney may file, within such twenty (20) day period, a motion, with a copy served upon the United States Attorney, seeking relief from the operation of this rule, and if a timely motion is filed, suspension shall be stayed until the motion is determined. If such motion is filed by an attorney who has been admitted to practice generally under Rule 2090-1(a) or (b) of these rules, it shall be heard and determined by the Chief Judge of this Court sitting with any two or more judges of this Court as the Chief Judge of this Court shall designate. If such motion is filed by an attorney who has been admitted to practice specially under Rule 2090-1(c) of these rules, it shall be heard and determined by the judge assigned to the case in which such special appearance has been made.

(d) Any attorney who appears in this Court, upon being subjected to public discipline by any other Court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth, or possession of the United States, including any attorney who is disbarred on consent or resigns from any bar while an investigation into allegations of misconduct is pending, shall promptly inform the Clerk of this Court of such action.

(e) Without limiting a judge's ability to discipline an attorney as provided in subsection (b) of this rule, and in addition to or as an alternative to such ability, upon request of a judge of this Court, the Chief Judge of this Court shall convene and appoint a Grievance Committee in the requesting judge's Division of the Court to conduct an investigation of alleged misconduct on the part of an attorney who appears in this Court, whether appearing generally under Rule 2090-1(a) or (b) or specially under Rule 2090-1(c). Each Grievance Committee so appointed shall consist of not less than five attorneys regularly practicing in that Division, three of whom shall constitute a quorum. Appointments shall be for the period of time necessary to conclude the investigation for which the Grievance Committee was appointed. The Court shall designate the Chairman of the Committee, but each Committee shall otherwise organize itself as it sees fit. All proceedings before the Committees may be conducted informally, but shall remain confidential unless otherwise ordered by the Court. Each Committee shall function as follows:

(1) When a requesting judge refers for investigation by a Committee any matter or question touching upon the professional behavior of an attorney, the Chairman of the Committee will promptly designate a member to investigate the matter and make a report to the Committee as a whole for the Committee's determination as to whether (i) the inquiry should be terminated because the question raised is unsupported or insubstantial; or (ii) the question raised justifies further inquiry but should be referred to the appropriate grievance committee of The Florida Bar; or (iii) the question raised should be pursued because there is probable cause to believe that the subject attorney has been guilty of unprofessional conduct justifying disciplinary action by the Court. The Chairman of the Committee shall then report the Committee's recommendation to the requesting judge and shall follow his or her direction.

(2) If the requesting judge directs prosecution under this Rule 2090-2, such report shall then be transmitted to the United States Attorney (or, if the United States Attorney be disqualified by interest, to another member of the bar appointed by the Chief Judge of this Court for that purpose) who shall file and serve a motion for an order to show cause upon the accused attorney. Such motion, and all further proceedings thereon, shall be heard and determined by the Chief Judge of this Court sitting together with any two or more judges of this Court as the Chief Judge of this Court shall designate.

(f) It shall be the duty of every attorney who appears in this Court, either generally under Rule 2090-1(a) or (b) or specially under Rule 2090-1(c), to respond to the Court in any proceeding under subsection (b) of this rule or any Grievance Committee of the Court or the United States Attorney during the course of any investigation or prosecution being conducted pursuant to subsection (e) of this rule; provided, however, no attorney shall be entitled as of right to notice of the pendency of any such investigation unless and until the attorney is named in an order to show cause filed pursuant to subsection (e)(2) of this rule.

(g) Any discipline imposed under subsection (b) or (e) of this rule will be reported to the District Court for the Middle District of Florida.

(h) Nothing in this rule shall be construed as providing exclusive procedures for the discipline of an attorney in appropriate cases nor as a limitation upon the power of the Court to punish for contempt in appropriate cases.

(i) Attorneys and litigants should conduct themselves with civility and in a spirit of cooperation in order to reduce unnecessary cost and delay.

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***Notes of Advisory Committee***

***2009 Amendment***

This amendment adds a local disciplinary rule. Although bankruptcy courts possess the inherent power to discipline attorneys and impose sanctions, this rule is meant to address

the policy and recommendation of the American Bar Association (ABA) that "the Federal Rules of Bankruptcy Procedure . . . be amended. . . to clarify the authority of bankruptcy courts to discipline attorneys . . . and require . . . bankruptcy courts to adopt and enforce local disciplinary rules with respect to attorneys practicing before them. . . ." American Bar Association, Report and Recommendation 117 at 2 (adopted August 2006). As of the date of this amendment, the Federal Rules of Bankruptcy Procedure have not been so amended. Nonetheless, for reasons recited in the ABA report as well as the Court's desire to provide formal, systemic disciplinary procedures as an option to the use of *sua sponte* discipline by one of the Court's bankruptcy judges, this Court has elected to act on the recommendation that a local disciplinary rule be adopted. Although attorneys who practice in the Bankruptcy Court must be admitted to practice in the United States District of Court for the Middle District of Florida, subject to that court's Rule 2.04(e)(1), only a portion of such attorneys actually appear in the District Court. Therefore, this Court deems it advisable to adopt its own grievance process pursuant to which this Court will address misconduct issues arising in cases in this Court. This amendment was effective on April 19, 2009.

### ***1997 Amendment***

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment was effective on April 15, 1997.

This rule was formerly Local Rule 1.07(c)(3). The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

The reference in this rule is to District Court Local Rule 2.04. At the time of this amendment, the District Court had not taken action to renumber its local rules. In the event the District Court renumbers its local rules, this rule should be interpreted to refer to the renumbered successor to current District Court Local Rule 2.04.